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7 *Acting United States Secretary of Labor*

FILED

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Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11

12 JULIE A. SU,
13 Acting Secretary of Labor,
14 United States Department of Labor,

Plaintiff,

15 v.

16 24/7 AUTO BODY, a California corporation;
17 JUAN JOSE AYALA, an individual,
Defendants.
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Case No. 4:23-cv-02979

**STIPULATION AND ~~PROPOSED~~
CONSENT JUDGMENT AND ORDER**

1 Plaintiff Julie A. Su, Acting United States Secretary of Labor ("Secretary"), and
 2 Defendants 24/7 Auto Body, a California corporation, and Juan Jose Ayala, an individual,
 3 (collectively, the "Parties"), stipulate and agree to the terms of the attached proposed Consent
 4 Judgment and Order as a final resolution of this action. The Parties further stipulate and agree that
 5 the proposed Consent Judgment and Order, upon entry, shall operate as final judgment in this
 6 action. The Parties further consent to the current magistrate judge assigned to this case.

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 8 Dated: June 26, 2023

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 10 SEEMA NANDA
 Solicitor of Labor
 11 MARC A. PILOTIN
 Regional Solicitor
 12 ANDREW J. SCHULTZ
 Counsel for Wage and Hour

13
 14 /s/ Jennifer L. Sta.Ana

15 JENNIFER L. STA.ANA
 Trial Attorneys
 16 Attorneys for Plaintiff Julie A. Su
 17 Acting United States Secretary of Labor

Juan Ayala
 24/7 Auto Body
 Defendant

Juan Ayala
 Juan Jose Ayala
 Defendant

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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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12 JULIE A. SU,
13 Acting Secretary of Labor,
14 United States Department of Labor,
15 v. Plaintiff,
16 24/7 AUTO BODY, a California corporation;
17 JUAN JOSE AYALA, an individual,
Defendants.

Case No. 4:23-cv-02979

**CONSENT JUDGMENT
AND ORDER**

1 Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of Labor (the
2 “Secretary”), and Defendants 24/7 Auto Body and Juan Jose Ayala (“Defendants”) (collectively,
3 the “Parties”) have agreed to resolve the matters in controversy in this civil action and consent to
4 the entry of this Consent Judgment on the terms and conditions set forth below.

5 **STATEMENT BY THE PARTIES**

6 A. The Secretary filed a Complaint alleging that Defendants violated Sections 7,
7 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended (“FLSA” or
8 “Act”), 29 U.S.C. §§ 207, 211(c), 215(a)(2), and 215(a)(5).

9 B. Defendants acknowledge receipt of a copy of the Secretary’s Complaint in this
10 action.

11 C. Defendants waive issuance and service of process of the Summons and
12 Complaint, and waive their response to the Secretary’s Complaint.

13 D. The Secretary conducted an investigation of Defendants pursuant to the FLSA
14 covering the period of January 5, 2019 to January 1, 2022 (“Subject Period”). The Parties have
15 agreed to settle and resolve all FLSA violations attributable to Defendants through this Consent
16 Judgment.

17 E. The Parties agree to the entry of this Consent Judgment without further contest.

18 F. Defendants admit that the Court has jurisdiction over the Parties and subject
19 matter of this civil action and that venue lies in the Northern District of California.

20 G. Defendants admit that they operate an auto body repair business within the
21 jurisdiction of this Court.

22 **PERMANENT INJUNCTION**

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that, pursuant to Section
24 17 of the FLSA, 29 U.S.C. § 217, Defendants, their officers, agents, servants, employees,
25 successor companies, parties in interest, and all persons and entities acting at their direction or in
26 concert or participation with Defendants, are permanently enjoined and restrained from violating
27 the FLSA, including through any of the following manners:

28 1. Defendants shall not, contrary to Section 7 of the FLSA, 29 U.S.C. § 207, employ

1 any employee who in any workweek is engaged in commerce, within the meaning of Section 3(s)
2 of the FLSA, 29 U.S.C. § 203(s), or is employed in an enterprise engaged in commerce or in the
3 production of goods for commerce, within the meaning of Section 3(s) of the FLSA, 29 U.S.C. §
4 203(s), for any workweek longer than forty (40) hours unless such employee received
5 compensation for their employment in excess of forty (40) hours in such workweek at a rate not
6 less than one and one-half times the regular rate of pay at which they are employed.

7 2. Defendants shall not fail to make; keep; make available to authorized agents of
8 the Secretary for inspection, transcription, and/or copying upon the Secretary's demand; and
9 preserve the records of employees and of the wages, hours, and other conditions and practices of
10 employment, pursuant to Sections 11(c) and 15(a)(5), 29 U.S.C. §§ 211(c) and 215(a)(5), and the
11 implementing regulations found in Title 29, Code of Federal Regulations, Part 516.

12 3. Defendants shall comply with the FLSA, and if not already in effect at the time of
13 entry of this Consent Judgment, shall amend and maintain its payroll practices as follows:

14 a. Defendants shall pay all employees, at the very least, the minimum wage
15 under the FLSA.

16 b. Defendants shall pay all employees overtime premiums, which is one and
17 one-half times the regular rate of pay, for hours over forty in a workweek
18 as set forth under the FLSA.

19 c. Defendants shall accurately record the information required by 29 C.F.R.
20 § 516.2 in payroll records, including (1) all hours worked by employees
21 each workday and workweek; (2) the rate(s) of pay for each of the hours
22 worked during the workweek; (3) the total weekly straight-time earnings
23 for the hours worked during the workweek; (4) the total premium pay for
24 overtime hours, if any.

25 d. Defendants shall ensure that employees' paystubs show accurate hourly
26 pay rates, all hours worked in the applicable workweek(s), any premium
27 pay including overtime calculations, and all deductions.

28 e. Defendants shall maintain all time and payroll records for a period of not

less than three years.

f. Defendants shall accurately record all wages paid to employees, regardless of the manner of payment, i.e. direct deposit, check, or cash, on their payroll records.

g. Defendants shall inform employees and third parties performing payroll duties of the requirements of this Consent Judgment and shall provide them with a copy of this Consent Judgment.

4. Defendants, their officers, agents, servants, and employees, and those persons in active concert or participation with them, shall not in any way directly or indirectly, demand, require or accept any of the back wages from any of the employees listed on the attached **Exhibit A**. Defendants shall not threaten or imply that adverse action will be taken against any employee because of their receipt of funds due under this Consent Judgment. Violation of this Paragraph may subject Defendants to equitable and legal damages, including punitive damages and civil contempt.

5. Defendants, their officers, agents, servants, and employees and those persons in active concert or participation with them, shall not in any way retaliate or take any adverse employment action, or threaten or imply that adverse action will be taken against any employee who exercises or asserts their rights under the FLSA or provides information to any public agency investigating compliance with the FLSA. Violation of this Paragraph may subject Defendants to equitable and legal damages, including punitive damages and civil contempt.

6. Defendants 24/7 Auto Body and Juan Jose Ayala, jointly and severally, shall not continue to withhold the payment of **\$40,500** in overtime pay found to be due by Defendants under the FLSA to employees, as a result of their employment with Defendants during the period of January 5, 2019 to January 1, 2022.

JUDGMENT

FURTHER, JUDGMENT IS HEREBY ENTERED, in favor of the Secretary as a judgment owed to the United States of American and against Defendants 24/7 Auto Body and Juan Jose Ayala, jointly and severally, in the total of **\$90,000**, which includes **\$40,500** in

overtime wages to Defendants' present and former employees who are identified in **Exhibit A**, plus an additional equal amount of **\$40,500** as Liquidated Damages to the employees identified in **Exhibit A**, plus **\$9,000**, designated as civil money penalties under 29 U.S.C. § 216(e).

7. IT IS FURTHER ORDERED AND ADJUGED that Defendants 24/7 Auto Body and Juan Jose Ayala, jointly and severally, shall pay the total of **\$40,500** in Liquidated Damages by **July 10, 2023** using the "WHD Back Wage Payment Form – Western Region" at <https://www.pay.gov/public/form/start/77761888>. The payment shall reference Case Number: "1928989."

8. IT IS FURTHER ORDERED AND ADJUGED that Defendants 24/7 Auto Body and Juan Jose Ayala, jointly and severally, shall pay the total of **\$40,500** in back wages owed to the employees listed in **Exhibit A** by **July 10, 2023** using the "WHD Back Wage Payment Form – Western Region" at <https://www.pay.gov/public/form/start/77761888>. The payment shall reference Case Number: "1928989."

9. IT IS FURTHER ORDERED AND ADJUDGED that Defendants provide a list of the known employee's mailing address, email, and phone number to Assistant District Director Alberto Raymond (raymond.alberto@dol.gov) of the Wage and Hour Division, U.S. Department of Labor by **July 10, 2023**.

10. IT IS FURTHER ORDERED AND ADJUGED that the Wage and Hour Division, U.S. Department of Labor, shall distribute the Liquidated Damages and back wage payments described in Paragraphs 7-8 to employees listed in **Exhibit A**, or if necessary, to the employees' estates. Any monies not distributed to employees within three years from the date of receipt of the checks from Defendants 24/7 Auto Body and Juan Jose Ayala, because of an inability to locate the proper persons or because of their refusal to accept it, the Secretary shall deposit the payment into the Treasury of the United States of America as miscellaneous receipts under 29 U.S.C. § 216(c).

11. IT IS FURTHER ORDERED AND ADJUDGED that Defendants 24/7 Auto Body and Juan Jose Ayala shall, jointly and severally, pay to the U.S. Department of Labor **\$9,000**, which is designated as a civil money assessment under 29 U.S.C. § 216(e), by **July 10,**

2023 by using the “WHD Civil Money Penalty Payment Form – Western Region” at <https://www.pay.gov/public/form/start/77743734>. The payment shall reference Case Number “1928989.”

12. IT IS FURTHER ORDERED AND AJUDGED that, should Defendants not pay back wages and Liquidated Damages by **July 10, 2023**, and Defendants default on their payments under Paragraphs 7-8 of this Order, Defendants must pay within ninety (90) days from July 10, 2023 **\$248,617.19** in Liquidated Damages and **\$248,617.19** in back wages to the employees listed in **Exhibit A** to the link provided in Paragraphs 7-8, as well as **\$10,000** in civil money penalties to the U.S. Department of Labor to the link provided in Paragraph 11. The amounts listed in this Paragraph are the full sums owed according to an investigation of Defendants for the Subject Period by the Wage and Hour Division, U.S. Department of Labor, under Section 11(a) of the FLSA, 29 U.S.C. § 11(a).

13. IT IS FURTHER ORDERED AND ADJUGED that, should upon further investigation by the Wage and Hour Division, U.S. Department of Labor, under Section 11(a) of the FLSA, 29 U.S.C. § 11(a), the Secretary discovers Defendants have the assets or funds, including cash funds, to pay at any time after entry of this Order the full amounts listed in Paragraph 12, Defendants must pay the full amounts listed in Paragraph 12 within ninety (90) days of written notice by the Secretary to Defendants. Defendants must provide financial disclosures and a list of assets under penalty of perjury within thirty (30) days of written notice the Secretary to Defendants.

14. IT IS FURTHER ORDERED AND ADJUDGED that if Defendants 24/7 Auto Body and Juan Jose Ayala do not cure any default of this Order, a post-judgment interest at the rate of 10% per annum shall be allotted until Liquidated Damages or back wages owed under this Order are paid in full.

ADDITIONAL PROVISIONS

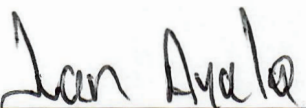
15. The filing, pursuit, and/or resolution of this proceeding with the filing of this Consent Judgment shall not act, as or be asserted as, a bar to any action under Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to any employee not named in the attached **Exhibit A**, nor any

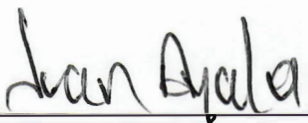
employee named in the attached **Exhibit A** for periods outside of the Subject Period.

16. Each Party shall bear their own fees and other expenses, including court costs, incurred by such Party in connection with any stage of this proceeding, including but not limited to attorneys' fees, which may be available under the Equal Access to Justice Act, as amended.

17. IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this action for purposes of enforcing compliance with the terms of this Consent Judgment.

Dated: June 23, 2023


24/7 AUTO BODY


JUAN JOSE AYALA

Dated: June 27, 2023

SEEMA NANDA
Solicitor of Labor

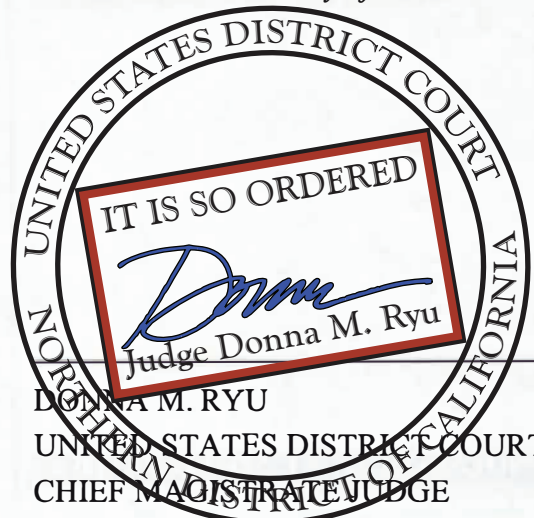
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/s/ Jennifer L. Sta.Ana
JENNIFER L. STA.ANA
Trial Attorney
*Attorneys for Plaintiff Julie A. Su, Acting
United States Secretary of Labor*

IT IS ORDERED.

Dated: July 5, 2023



DONNA M. RYU
UNITED STATES DISTRICT COURT
CHIEF MAGISTRATE JUDGE

EXHIBIT A

LAST NAME	FIRST NAME	DATES OF EMPLOYMENT	BACK WAGES	LIQUIDATED DAMAGES
Alfaro	Angel	01/05/2019 - 01/01/2022	\$ 815.71	\$ 815.71
Alvarado	Daniel	01/05/2019 - 01/01/2022	\$ 33.07	\$ 33.07
Cabrera	Moises	01/05/2019 - 01/01/2022	\$ 658.28	\$ 658.28
Castillo	Carlos	01/05/2019 - 01/01/2022	\$ 229.69	\$ 229.69
Ceron	Cristian	12/14/2019 - 12/12/2020	\$ 4,139.05	\$ 4,139.05
Diaz	Salvador	12/14/2019 - 12/12/2020	\$ 5,219.36	\$ 5,219.36
Espinoza	Victor	12/14/2019 - 12/12/2020	\$ 1,609.46	\$ 1,609.46
Garcia	Jose	12/14/2019 - 12/12/2020	\$ 2,514.54	\$ 2,514.54
Gutierrez	Esteban	12/14/2019 - 12/12/2020	\$ 1,440.05	\$ 1,440.05
Jaimes	Emmanuel	12/14/2019 - 12/12/2020	\$ 2,882.33	\$ 2,882.33
Jorge	Obregon	01/05/2019 - 01/01/2022	\$ 1,034.59	\$ 1,034.59
Marquez	Gerardo	12/14/2019 - 12/12/2020	\$ 5,791.72	\$ 5,791.72
Mejia	Walter	01/05/2019 - 01/01/2022	\$ 3,179.17	\$ 3,179.17
Nuno	Mano	01/05/2019 - 01/01/2022	\$ 192.71	\$ 192.71
Salvador	Mejia	01/05/2019 - 01/01/2022	\$ 1,812.90	\$ 1,812.90
Sanchez	Miguel	01/05/2019 - 01/01/2022	\$ 786.00	\$ 786.00
Sicay	Juan	1/5/2019 - 01/04/2020	\$ 756.69	\$ 756.69
Solis	Fatima	12/14/2019 - 12/12/2020	\$ 615.77	\$ 615.77
Solis	Sayda	12/14/2019 - 12/12/2020	\$ 931.80	\$ 931.80
Terra	Gilberto	12/14/2019 - 12/12/2020	\$ 3,388.35	\$ 3,388.35
Valencia	Antonio	1/5/2019 - 01/04/2020	\$ 96.93	\$ 96.93
Vargas	Sergio	12/14/2019 - 12/12/2020	\$ 2,371.84	\$ 2,371.84
TOTAL			\$ 40,500.00	\$ 40,500.00